

**REMARKS**

Claims 1-34 were pending in the present application. By virtue of this amendment, Applicant has amended claims 1 and 8, added claims 35 and 36, and cancelled claims 24 and 25. Claim 9 was previously cancelled. Further, no new matter has been added. Support for the amendments and new claims may be found throughout the specification, but particularly in Figures 5-8.

Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented, or an abandonment of any unclaimed subject matter.

***Telephone Interview of June 6, 2006***

The Applicant thanks the Examiner and the Examiner's Supervisor for their helpful interview on June 6, 2006, in which U.S. 4,601,465 to Roy ("Roy") was discussed. The Applicant has taken the Examiners' suggestions and has amended independent claims 1 and 8 to clarify that the obstructing member (claim 1) or valve (claim 8) is configured to be held substantially within a subject's mouth in the claimed devices. As we discussed during the interview, unlike the device described in Roy, the majority of the Applicant's claimed device is configured to be held within the subject's mouth. Furthermore independent claim 20 is already distinguished over Roy, because it specifies that the valve is part of a housing that is configured to be held in the patient's mouth. Finally, independent claim 24 has been cancelled.

By virtue of this amendment, the Applicant feels that all of the outstanding issues for this patent have been resolved, and the pending claims are in a condition for allowance. In particular, the Applicant submits that the rejection of claims 1-10, and 12-25 under 35 U.S.C. § 102(b) as allegedly being anticipated by Roy has been overcome. Further, the rejection of claim 24 under the judicially created doctrine of obviousness-type double patenting (over U.S. Patent No. 6,722,360) has been obviated by canceling claim 24.

**CONCLUSION**

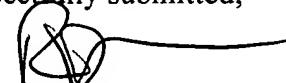
If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **606492000201**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: June 20, 2006

Respectfully submitted,

By



Rick Shoop

Registration No.: 45,763

MORRISON & FOERSTER LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
(650) 813-5804